Democracy and Cultural Rights in the European Union

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Abstract:

In Antiquity the Greek philosopher, Aristotle, sustained that the purpose of the State is to be, within the possibilities, a society of equal human beings. Our days the democracy answers the need of different components of the society to express themselves in the means of respect towards equality. Democratic practices cannot be conceived outside the nation. The problem is if there exists the possibility for it to function on the supranational level. The reflections with respect to the multiculturalism and the new conceptions which is elaborated starting from the European construction, make actual the connection between nation and democracy.

Key words: *democracy, integration, European citizenship, nation, cultural rights*

Within the European cultural space, the democratic political regime constitutes no recent subject of debate. Twenty-five centuries ago, it stood in the middle of the debates with respect to the political life at the ancient Greeks. Nowadays, it constitutes all the more a privileged subject. The social homogeneity and the political consensus are considered compulsory premises for a stable democracy or are considered extremely favourable factors for this one.

The problem of acknowledging the special cultural rights of the ethnic groups within a nation may be also raised in connection with the cultural rights of the nations in the framework of the new political entity which is intended to be Europe of the future. Cultural rights, as well as other rights like the economic ones must be protected not only by the state, but also through citizen's associative forms, because this is the only way to practice the citizen's fundamental rights at another level, a superior one.

Modern democratic societies, like Greece, managed to ensure for all citizens, inclusively for foreign citizens, legally settled, civil, economic and politic rights. The question which is being raised now is how the European Union could take into consideration the claim of the „cultural rights" of the societies which are nowadays more diversified and more open.

The 20th century, marked by the "war of the political regimes" (Baudouin,1998, p.101) makes that not only the political scientists attention should direct towards

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itself, but that of the sociologists, of the jurists, of the philosophers. The collapse of the totalitarian regimes led to the reanalysis of the ethic principles, this way there being renewed the idea of democracy.

The concept of democracy is used within several universes of discourse, but in the first instance within the one of daily political life. We currently understand through democracy "the political regime in which sovereignty is exercised by the people" (*Dictionnaire Hachette,* 2003) in which every citizen has the liberty to express his convictions.

Anton Carpinschi submits the compliance with the political phenomenon from the perspective of the paradigm of the part and of the wholeness. In the framework of this model, the wholeness designates the dynamic unity of the generic agents of the political game: power, civil society, human individual. The wholeness is, therefore, the social wholeness, society consisting in political society (State, parties, groups of pressure) and civil society (economic, cultural life etc., extra-political, individual and collective). The parts are represented, according to the submitted paradigm, by every agent of the mentioned triad, as well as by the different classes, social groups and political parties existing within a society. Democracy will be instituted when between the different parts (classes, groups, parties, individuals) and the social wholeness there settles the dynamic equilibrium, when the competing positions and interests legally confront and conciliate, there being affected neither the interests of any minority, nor of the social wholeness. The free and creative individual, civil society in its diversity and legitimate political power adjust their relations in a rightful manner; the person's rights, including cultural rights, and liberties are observed, and the State functions according to the lawful standards (Carpinschi, 1992, p. 150-151).

The instauration and the maintenance of a stable democratic government within a plural society is difficult to be realized. The social homogeneity and the political consensus are considered compulsory premises for a stable democracy or are considered extremely favourable factors for this one. On the contrary, the profound social divisions and the political differentiations within plural societies are considered the causes for the democracy instability and its collapse. Arend Lijphart considered that only a certain form of democracy, the consociational one, makes possible the maintenance of democracy within a plural society. In such a democracy, „the centrifuge tendencies inherent to a plural democracy are neutralized by the cooperating attitudes and behaviour of the leaders of different population segments" (Lijphart, 2002, p. 174). As a matter of fact, the cooperation among the elites stands for the main distinctive feature of the consociational democracy. However, we do not have to infer that the individual's role is minimized. Within modern democratic society, the connection among people is a political one. To live together means no longer to share the same religion, the same culture or to submit, together with the others, to the same authority, but to be citizen of the same political organization. Citizenship stands for the source of social connection (Schnapper, 2001). Citizens' society, through their political and social institutions, through daily exchanges, is a democratic society. Every citizen, independently of his/her culture, religion, ethnic

origin, race, gender etc., has the right to the same respect, to the recognition of his/her dignity. The relations among people are based on every one's equal dignity.

Only within democratic society, citizenship is, in principle, open to all individuals, beyond cultural, social or biological differences. In the name of the values of modern democracy, political order assumes as ambition the integration of the different cultural groups with the help of citizenship, through rising above their concrete diversities, their particularities. The democratic State is based on the principle of the citizens' inclusion and of the non-citizens' exclusion from the political practises. It includes the former ones, ensuring their equal participation to the political life; it excludes the others from the practises in direct connection to the citizenship that they dispose of within another society. From the judicial point of view, „any person has the right to citizenship" *(Universal Declaration of the Human Rights,* art. 15) and to the afferent civil rights. Democratic society has however the vocation to open itself for all those who may participate in the political life, independently of their particular features, it is more open to foreigners than any other form of political organization (for instance, there may be obtained the French, Greek, Swiss, German etc citizenship etc. through naturalization). From the fact that the right to citizenship is open, there does not ensue the fact that nationality may be unconditionally granted to all individuals present on the national territory, as this would mean the denial of difference between the nationals and the foreigners. Only the citizens of a democratic nation are fully acknowledged with their political rights. However, all foreigners with a regulated situation, non-citizens, therefore deprived of their political rights in connection to the citizenship, dispose of the same civil, economic and social rights as the nationals. Foreigners enjoy within a democratic society all individual liberties. They have the right to practice their own culture, to circulate freely; they have the right to the presumption of innocence, in case they are deferred to justice. Gradually, after the end of the second World War, the foreigners' judicial status in Europe was assimilated to the nationals' one, as regards the salaries, the right to work and the right to social protection. The legislation that states the equality of the civil, of the economic and of the social rights is based in fact on the fundamental idea of the human rights, as being inalienable and universal. In this respect, Dominique Schnapper considered that the „observance of the foreigner's rights as human being means in a way to reassert the values around whom there were built modern democracies" (Schnapper, 2001).

Legitimacy and democratic practices cannot be conceived outside the nation. The problem is if there exists the possibility for it to function on the supranational or infranational level. The reflections with respect to the multiculturalism and to the infranational rights, on one hand, and the new conceptions which will be elaborated starting from the European construction, on the other, make actual the connection between nation and democracy. The problem of acknowledging the special cultural rights of the ethnic groups within a nation may be also raised in connection with the cultural rights of the nations in the framework of the new political entity which is intended to be Europe of the future.

Modern democratic society managed to ensure for all citizens, inclusively for foreign citizens, legally settled, civil, economic and political rights (Bercea, 2007). The question which is being raised now is how it could take into consideration the claim of the „cultural rights" of the societies which are nowadays more diversified and more open. Any society is, through definition, multicultural, consisting in groups that differ from the cultural point of view. According to the democratic principles, there is necessary to correlate the citizens' civil and political equality with the observance of their ethnic or religious particular attachments, ensuring at the same time, the unity of society through common citizenship and individual liberty.

Interculturality implies the acknowledgement of the „cultural rights" as being integrant part of the individual rights. When we refer to „cultural rights" we do not act in the intellectual sense of the concept (the right to scientific knowledge, to reading etc.), but in the sense of the „individual's rights to possess and to develop, possibly in common with others within a group defined through shared values and traditions, his/her own cultural life, that should correspond to a cultural identity distinct from the one of the other individuals or groups." (Mesure, Renaut 1999, p. 261)

The assertion of the particular cultural rights implies certain risks. In the first place, there exists the possibility for the individuals that pertain to a certain cultural group to subordinate themselves to his one, sacrificing their personal liberty and the possibility to maintain relations with the members of other groups. According to the principles of democracy, the individual does not belong to a certain group, isolated from the others; society does not consist in juxtaposed groups, to whom there would pertain the individuals, but in persons with multiple social roles. The second risk is connected to the social integration, in the sense that it is possible for the citizens to retreat within the community of origin, instead of opening towards other groups (Lijphart, 2002). Moreover, the recognition of the cultural rights may lead to different political, economic, social rights.

Cultural identity is based largely on the diversity of historical experiences and social worlds. This diversity creates a "horizon of expectations" versus the European Union that varies from one country to another. The plurality of horizons of expectations and of points of view is not in itself an insurmountable obstacle, as certain principles can be adjusted, thus leading to consensus — at least a partial or provisional one. Nevertheless, the diversity of historical experiences opens up the possibility of misunderstanding. In certain cases, it can block the whole discussion process. It can render impossible the elaboration of a common interpretation of problems, which creates a prerequisite for all collective decisions (Baudouin, 1998). Consequently, a reciprocal understanding of the "social and cultural worlds" of the diverse European nations is a necessary prerequisite for all possibilities of political cooperation. This reciprocal comprehension implies joint historical and linguistic analyses — linguistics here being considered in the sense of discourse analysis. On the one hand, we aim at better understanding the history of Europe and its contemporary political reverberations. We will resort to political history, but also to social and cultural history. From this perspective, we will try to replace the

construction and the issue of European identity in the context of a theory of history that would take into consideration both the end of the metaphysics of history and of the plurality of historiographies (especially from the point of view of each nationality). On the other hand, we aim at examining the conditions for the possibility of communication of the lived experiences, especially the collective ones. From this perspective, we need to focus on the history of ideas and cultural practices (Cucos, 2000). We must examine, for example, the reception of great authors, of new models and concepts in Europe; we must study how the ideas have circulated and transformed representations in key periods of European history: Middle Ages, Renaissance, Reform, Enlightenment, Industrial Revolution, the two World Wars etc. The principle of such research is that there is no specifically European thought, if we should understand by this concept a thought that would be specific to Europeans in opposition to all other civilizations. What exists, though, is a European practice of thought, which we can circumscribe by analyzing the history of intellectual practices and the circulation of scientific, aesthetic, philosophical ideas in Europe. European identity does not rely on predetermined ethno-cultural characteristics, but on the history of these practices, the way in which the ideas and ideals have been forged, transmitted, received and re-interpreted from a nation to another.

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